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Re:	SN 10/019570		

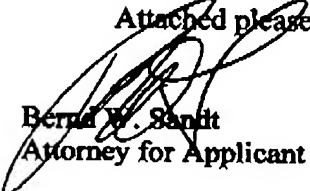
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Message

Applicant: Jin Po Lee
Serial No: 10/019,570
Filed: 11/8/2001
For: Multiple Analyte Assay Device
Group Art Unit: 1743 Examiner: Lyle A. Alexander

Attached please find a response to the office action dated 4/23/2007.


Bernd W. Sandt
Attorney for Applicant

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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

Applicant: Jin Po Lee
Serial No: 10/019,570
Filed: 11/8/2001
For: Multiple Analyte Assay Device
Group Art Unit: 1743 Examiner: L. A. Alexander

Mail Stop RCE
Commissioner for Patents
P.O Box 1450
Alexandria, VA 22313-1450

By Fax

Response B

Sir:

In response to the Office Action dated 4/23/2007 please cancel claims 26-34 and enter new claims 35-43.

Applicant's claims have been rejected under 35 USC 102 (e) as clearly anticipated by Kimrov US 5,770,458. Applicant has amended the claims to more clearly distinguish over the reference.

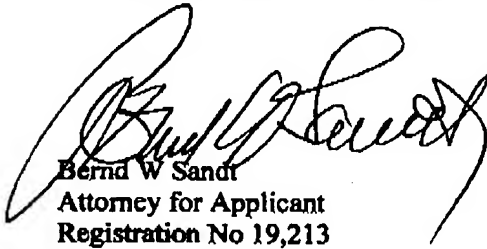
In rejecting the claims the examiner has used elements from two devices, which are of different construction and operation. Thus Figures 1 A and B according to the specification show a device which does not employ a cover (column 6 lines 42 to 46) whereas Figure 1C shows a "prior art" device which has a cover but fails to show anything else about the construction of the assay device. 102 in Figure 1 B is stated to be a holder. But the drawing is incomplete as to the nature of the holder 102 nor is it disclosed how this holder fits into the cup shown in Figure A where such holder is not identified. The holder of the device as shown in Figure 1C furthermore fails to show any ribs nor can such be assumed since the holder does not employ a cover. The examiner's statement that the holder 102 has a number of slots is

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unsupported since no slots are shown in conjunction with the holder 102. The examiner's statement of the sealed cover applies to a different device as compared to the device shown in Figure 1B. Regardless of which device one looks at is clear that the assay strips do not extend beyond either the base or the cover, but are totally enclosed by the housing. Thus it is impossible to use the Kimrov devices as dipsticks by merely inserting the exposed ends into an analyte sample. The assay strips in the Fig.1B are contacted with the sample through the back of the base (102) and not through any removable cap. Since the device shown in Fig.1 B does not have a cover it is not seen how the seal 110 can be read as being a cap since it does not enclose the strips but merely seals them against the base. Applicant has amended the claims to more extensively characterize the cap. Furthermore there is no means of accessing the sample through the seal and it has no opening for adding sample to the strips. Fig. 1B does not support the examiner's assertion that the device shows protruding test strips. On the contrary the base 102 extends way beyond the strips to the point where it is not even completely shown.

Applicant's claims are therefore deemed to be patentable over Kimrov and an allowance is respectfully solicited.



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